

Alan J. Kessel (Cal. Bar No.: 130707)
 Keli N. Osaki (Cal. Bar No.: 177920)
 Brandon Q. Tran (Cal. Bar No.: 223435)
BUCHALTER NEMER
 A Professional Corporation
 18400 Von Karman Avenue, Suite 800
 Irvine, California 92612-0514
 Telephone: (949) 760-1121
 Facsimile: (949) 720-0182
 E-mail: btran@buchalter.com

Attorneys for Plaintiff DIRECTV, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DIRECTV, INC., a California corporation,

 Plaintiff,

 vs.

 MICHAEL POLISKY, et al.,

 Defendants.

Case No. CV-04-1754 MJJ

Hon. Martin J. Jenkins

**REQUEST FOR VOLUNTARY DISMISSAL
 OF DEFENDANT KELWYN PENDER;
~~[PROPOSED]~~ ORDER THEREON**

Pursuant to Fed. R. Civ. P. 41(a)(2), Plaintiff DIRECTV, Inc. ("DIRECTV") hereby respectfully requests that the Court enter an Order dismissing the above-captioned action with prejudice as to Defendant Kelwyn Pender ("Defendant"). This request is made on the grounds that Defendant and DIRECTV have entered into an agreement settling this matter. Pursuant to the terms of that agreement, DIRECTV agreed to voluntarily dismiss this action against Defendant, each party to bear its/his own attorneys' fees and costs incurred in this action to date.

Although on July 5, 2005 this Court conditionally dismissed without prejudice DIRECTV's claims against Defendant, DIRECTV is obligated under the terms of the settlement agreement to take all reasonable steps to obtain a dismissal of this action with prejudice against Defendant, each party to bear its/his own costs and attorneys' fees. DIRECTV files this Request in fulfillment of that obligation.

1 Defendant answered the Complaint on or about September 13, 2004. DIRECTV,
2 therefore, cannot unilaterally voluntarily dismiss this action against Defendant absent a Court
3 order. Fed. R. Civ. P. 41(a). Accordingly, DIRECTV respectfully requests the entry of such an
4 order dismissing Defendant with prejudice.

5 Defendant Kelwyn Pender is the last remaining active Defendant in this action.
6 This entire action as to all remaining claims is therefore terminated in full.

7 DATED: October 3, 2005

Respectfully Submitted,

8 BUCHALTER NEMER
9 A Professional Corporation

10 By: _____/S/
11 Brandon Q. Tran
12 Attorneys for Plaintiff DIRECTV, Inc.

13 **ORDER**

14 Having read the foregoing Request for Voluntary Dismissal of Defendant
15 Kelwyn Pender filed by Plaintiff DIRECTV, Inc., and such other pleadings and papers deemed
16 appropriate by the Court, and GOOD CAUSE appearing therefore, the Court ORDERS as
17 follows:

- 18 1. This action is hereby dismissed with prejudice as against Defendant
19 Kelwyn Pender;
- 20 2. Each party shall bear its/his own attorneys' fees and costs incurred in this action to
21 date; and
- 22 3. As Defendant Kelwyn Pender is the last remaining active Defendant in this action,
23 this entire action as to all remaining claims is hereby terminated in full.

24 DATED: 10/6/2005



25 _____
26 Honorable Martin J. Jenkins
27 United States District Court
28 Northern District of California